IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY, THE SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 819 of 1999

Between:

S.Noor Ahammed S/o.Mahiddin Saheb
R/o.H.No.18/52,Mubarak Rice Mill Nandikotkur
Kurnool Dist.

..... PETITIONER

AND

1 The Commissioner Prohibition & Excise
Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise
Kurnool Town & District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of the Writ of Certiorari call for the records in CR.NO.1369/DPE/98/B2 on the file of the 1st respondent and consequently quash the orders issued by the Commissioner of Prohibition & Excise, Hyderabad in CR.No.1369/DPE/98/B2, dt.28-11--1998 confirming the orders of the Deputy Commissioner of Prohibition & Excise, Kurnool in RC.No.B1/749/97, dt.30-5-98 after declaring the same as arbitrary and illegal in the interest of justice.

For the Petitioner: MR.P.NAGENDRA REDDY,Advocate

For the Respondents: GP FOR PROHIBITION & EXCISE

The Court Made the Following :

ORDER:

The petitioner's vehicle bearing No.AP 04 5000 was checked by the Sub Inspector of Police, Nandikotkur PS, on 5-4-1997 and found two gunny bags, which contains 48 bottles of Bagpiper whisky of 750 ml. and 68 bottles of Old tavern whisky of 750 ml. and a case in Cr.No.47/97 was registered under sec.8(b) of A.P.P. Act,1995. On the report made by S.I. of Police, the Deputy Commissioner of Prohibition & Excise, Kurnool, initiated proceedings under the Excise Act issued notice, calling upon the petitioner to show cause why the car which was found in transportation/possession of liquor bottles, should not be confiscated as per sub-section (b) of Section 13-A of A.P.P.Act. On submission of the explanation by the petitioner, the Deputy Commissioner of Prohibition & Excise, passed order confiscating the vehicle to the State. The petitioner's appeal against the said confiscation order was also dismissed by the Commissioner of Prohibition & Excise. Challenging the said orders, the petitioner filed the present writ petition contending that a false case has been foisted against the petitioner and the confiscation order is contrary to law and evidence.

The learned counsel for the petitioner contends that the petitioner has no knowledge of involvement of his vehicle in the above crime, but the authorities did not consider the same.

Either in the explanation submitted by the petitioner to the show cause notice or in the grounds of appeal, which is evident from the counter, except denying the involvement of the vehicle, he has not

stated that he has no knowledge about the offence and involvement of the vehicle in the said offence. No ground is raised in the writ petition about the knowledge except stating that the vehicle was not involved. Since Cr.No.47of 97 was registered by the Nandikotkur Police under Section 8(b) of A.P.Excise Act and the matter was reviewed after seizure of the contraband along with the vehicle, mere assertion that the vehicle was not involved in the crime is not sufficient and no weight can be given to the same, as respondents after considering the material on record, ordered confiscation of the vehicle. In view of the same, I do not see any merit in this writ petition. More so, this court cannot exercise the appellate jurisdiction and can arrive to a different conclusion.

The writ petition fails and it is accordingly dismissed. However, the respondents are entitled to encash the bank guarantee furnished by the petitioner pursuant to the interim order granted by this court. On such encashment of the bank guarantee, no further action need be taken for confiscation of the vehicle.

2nd JULY 2004

BSS/KMR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner Prohibition & Excise
Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise
Kurnool Town & District.
3.2CCs to G.P. FOR Prohibition & Excise, High Court Buildings
Hyderabad (OUT)

4.2CD copies

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